

REMARKS

Claim 17 has been amended to reflect the processorial nature of claim 13, and applicants respectfully request withdrawal of the rejection made thereof under 35 USC §112, ¶2.

As set forward in the reply dated December 13, 2001, claims 1-5 and 7-17 are not obvious under 35 USC §103(a). Applicants refer the examiner to the discussion therein, and additionally set forward the following points.

To establish *prima facie* obviousness, some suggestion or motivation to modify the reference must be found either in the reference itself or in the knowledge generally available to one of ordinary skill in the art (*In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)). Additionally, the prior art must be considered in its entirety, including portions that would lead away from the claimed invention (*W. L. Gore & Associates, Inc., v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983)). No such suggestion or motivation exists in the prior art references used in this rejection.

Dieing et al. (EP 893,117) is characterized by the examiner to teach cationic crosslinked polymers for use in hair care compositions, which "when added to shampoos, show excellent conditioning properties without a build-up effect" (office action of Sept. 18, 2001, p.4, citing Dieing et al., English abstract). The emphasis in this patent is on the ability of the polymer-containing shampoo to be easily removed from the hair. Applicants respectfully submit that it would seem wasteful to one of skill in the art to add an inorganic UV filter to the shampoo composition of Dieing, or even to the polymer. The fact that the polymer imparts a quality that lessens the ability of the

composition to adhere to the hair suggests that it would not be desirable for use in conjunction with a UV filter, where the composition *must* adhere to the hair in order to be optimally useful.

Tanner et al. (US 5,827,508) and Matsumoto et al. (US 5,603,926) both disclose hair care products intended to *remain* on the individual's hair. Applicants respectfully submit that no skilled artisan would find motivation to combine these references, where the fundamental purposes of each are entirely at odds. For instance, Matsumoto et al. describe as one of their objects production of "a hair grooming preparation which shows excellent adhesive property to hair" (col.2:63-65). Tanner, et al. list a fair number of different products in which a sunscreen preparation is appropriate, and all of these require adherence to the individual's person to achieve their intended effect (col.8:49-54). Certain sunscreens known in the art are specifically touted for their abilities to resist being washed off.

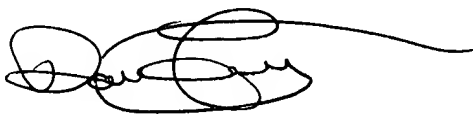
Accordingly, applicants submit that Tanner et al., Matsumoto et al., and Dieing et al., give no suggestion or motivation to combine their disclosures. In Dieing, the emphasis is on the enhanced ability of the composition to be removed, and in Tanner and Matsumoto, the emphasis is on the ability of the composition to adhere. The polymer at issue is credited in Dieing as being the major contributive force, and one of skill in the art would not see in this a suggestion to use it in a composition taught by Tanner or Matsumoto. Applicants respectfully request that the examiner withdraw the rejection made under 35 USC §103(a) over Dieing et al. in view of Tanner et al. and Matsumoto et al.

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In view of the foregoing amendments and remarks, applicants consider that the rejections of record have been obviated and respectfully solicit passage of the application to issue.

Please charge any shortage in fees due in connection with the filing of this paper, including Extension of Time fees to Deposit Account No. 11-0345. Please credit any excess fees to such deposit account.

Respectfully submitted,  
KEIL & WEINKAUF

A handwritten signature in black ink, appearing to read 'David C. Liechty', with a long horizontal flourish extending to the right.

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**VERSION WITH MARKINGS TO SHOW CHANGES MADE**  
**IN THE CLAIMS**

Please amend claim 17 to read as follows:

17. A process for protecting the human skin or human hair against solar rays,  
wherein an effective amount of a cosmetic or dermatological preparation  
prepared according to the process [as] claimed in claim 13 is applied to the  
human skin or human hair.